

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20121
Docket Number MW-20108

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Burlington Northern Inc.

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement on August 5 and 6, 1971, when it assigned or otherwise permitted a Store Department employee instead of Painters A. L. Ramsdell and G. L. Ramsdell to apply floor sealer at the Brainerd storeroom (System File MW-84 (p)-1 11/10/71).

(2) Painters A. L. Ramsdell and G. L. Ramsdell each be allowed eight (8) hours' pay at the painter's rate because of the violation referred to within Part (1) of this claim.

OPINION OF BOARD: Carrier argues that this claim should be dismissed because the Organization failed to cite, during the handling on the property, any specific contract rule which Carrier was alleged to have violated. We note that the correspondence on the property supports Carrier's contention; although raised in writing by Carrier, Petitioner at no stage on the property cited a particular rule or rules alleged to have been violated.

It is of no avail that Petitioner has cited the Scope Rule in its submission to the Board. In the handling prior to submission to the Board, particularly after Carrier has specifically raised the question, the Organization is obligated to identify the rule which has allegedly been violated.

We have dealt with this issue on numerous occasions in the past. Recently we handled an almost identical issue involving the same parties as those herein in Award 19855. We concur in the reasoning expressed in that Award, which is entirely applicable to this dispute.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

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That the Claim is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 25th day of January 1974.